

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

09/05/2001

CLERK OF THE COURT
FORM V000A

HONORABLE MICHAEL D. JONES

T. Pavia
Deputy

CV 2001-012543

FILED: _____

JKE ENTERPRISES INC

JAMES B ROLLE III

v.

VENTANA CORPORATION INC

JOHN R HOOPES

MINUTE ENTRY

On August 20, 2001, this Court heard oral argument on Appellant's request for Order to Show Cause and Appellant's Motion for Preliminary Injunction. The Court has reviewed the file, the pleadings submitted by counsel and now finds as follows:

1. This is an appeal from a forcible detainer judgment entered in the Scottsdale Justice Court on May 30, 2001. The Scottsdale Justice Court found in favor of Appellee JKE Enterprises, Inc. At the time of the forcible detainer trial, Appellant had already vacated the premises. Appellant's position is that they were forced out of the premises in an unlawful manner.
2. Appellant has requested in its Order to Show Cause and Motion for Preliminary Injunction that this Court enter an order restoring Appellant to possession of the premises located at 6137 N Scottsdale Rd., Suite B-106A, Scottsdale, Arizona.

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3. Appellant cites A.R.S. Section 12-1179(D) in support of his request for restoration to possession of the premises at issue. Unfortunately, that statute does not apply to the facts of this case as Appellant is no longer in possession of the premises at issue. A.R.S. Section 12-1179(D) expressly provides for a procedure by filing a supersedeas bond which will have the effect of staying the execution of a judgment for possession. This statute does not apply to the facts before this Court because Appellant was not in possession of the premises at the time of judgment; Appellant had already been "locked out".

IT IS THEREFORE ORDERED denying the relief requested in Appellant's Petition for Order to Show Cause and the relief requested in the Motion for Preliminary Injunction.

IT IS FURTHER ORDERED affirming oral argument on the Lower Court Appeal for **September 24, 2001 at 8:30 a.m. before Judge Michael B. Jones, 201 West Jefferson, CCB-10B, Phoenix, Arizona 85003**